

IN THE MATTER OF : BEFORE THE
MICHAEL & REBECCA ANKROM : HOWARD COUNTY
 : BOARD OF APPEALS
Petitioners : HEARING EXAMINER
 : BA Case No. 06-018V

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DECISION AND ORDER

On June 12, 2006, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the petition of Michael and Rebecca Ankrom, Petitioners, for a variance to reduce the 10-foot side setback to 6.5 feet for an addition to be located in an R-20 (Residential – Single) Zoning District, filed pursuant to Section 130.B.2 of the Howard County Zoning Regulations (the "Zoning Regulations").

The Petitioner provided certification that notice of the hearing was advertised and certified that the property was posted as required by the Howard County Code. I viewed the property as required by the Hearing Examiner Rules of Procedure.

The Petitioner was not represented by counsel. Michael and Rebecca Ankrom testified in support of the petition. No one appeared in opposition to the petition.

FINDINGS OF FACT

Based upon the evidence presented at the hearing, I find as follows:

1. The subject property, known as 8194 Elberta Drive, is located in the 2nd Election District on the north side of Elberta Drive about 200 feet northwest of Clearwater Drive in the Brookfield

Farms subdivision in Ellicott City (the “Property”). The Property is identified on Tax Map 31, Block 8 as Parcel 351, Lot 3.

The Property is a rectangular-shaped lot consisting of about 0.369 acres, or 16,086 square feet. The lot has about 87.5 feet of frontage on Elberta Drive and is about 184 feet deep.

The Property is improved with a two-story residential dwelling that faces Elberta Drive and is located 45 feet from the road frontage, 11 feet from the west side lot line, 104 feet from the rear lot line, and 22.5 feet from the east side lot line. The house is about 34.4 feet deep and 44.1 feet wide.

The house is accessed from a paved driveway from Elberta Drive leading to a two-car attached garage at the west side of the house. A concrete patio with a retaining wall is attached to the rear of the house. The back yard of the lot slopes down to the north.

2. The Petitioners, the owners of the Property, request a variance for an addition to be constructed onto the east side of the home. The addition will be one story and will be 16 feet wide and 24 feet deep. The addition will therefore be located 6.5 feet from the side lot line and encroach 3.5 feet into the 10-foot side setback required by Section 108.D.4.c(1)(b).

3. Vicinal properties are also zoned R-20 and are part of the Brookfield Farms subdivision. The subdivision plat identified by the Petitioners (Exhibit 1) indicates that the Property is one of the smallest and narrowest properties in the subdivision. The size of the Petitioner’s home is smaller than many in the neighborhood. The existing dwelling to the east of the Property is 59 feet from the lot line.

4. Mr. and Mrs. Ankrom testified that the addition will be used as a first-floor residence for

Mrs. Ankrom's disabled parents. They stated that, because of the slope of the back yard, the addition could not practically be built in the rear of the house.

CONCLUSIONS OF LAW

The standards for variances are contained in Section 130.B.2.a of the Regulations. That section provides that a variance may be granted only if all of the following determinations are made:

(1) That there are unique physical conditions, including irregularity, narrowness or shallowness of the lot or shape, exceptional topography, or other existing features peculiar to the particular lot; and that as a result of such unique physical condition, practical difficulties or unnecessary hardships arise in complying strictly with the bulk provisions of these regulations.

(2) That the variance, if granted, will not alter the essential character of the neighborhood or district in which the lot is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare.

(3) That such practical difficulties or hardships have not been created by the owner provided, however, that where all other required findings are made, the purchase of a lot subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.

(4) That within the intent and purpose of these regulations, the variance, if granted, is the minimum necessary to afford relief.

Based upon the foregoing Findings of Fact, and for the reasons stated below, I find that the requested variance complies with Section 130.B.2.a(1) through (4), and therefore may be granted.

1. The first criterion for a variance is that there must be some unique physical condition of

the property, e.g., irregularity of shape, narrowness, shallowness, or peculiar topography that results in a practical difficulty in complying with the particular bulk zoning regulation. Section 130.B.2(a)(1). This test involves a two-step process. First, there must be a finding that the property is unusual or different from the nature of the surrounding properties. Secondly, this unique condition must disproportionately impact the property such that a practical difficulty arises in complying with the bulk regulations. See *Cromwell v. Ward*, 102 Md. App. 691, 651 A.2d 424 (1995). A “practical difficulty” is shown when the strict letter of the zoning regulation would “unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.” *Anderson v. Board of Appeals, Town of Chesapeake Beach*, 22 Md. App. 28, 322 A.2d 220 (1974).

The Property is smaller and narrower than most properties in the neighborhood. In addition, the rear yard slopes down, making it impractical to build at the rear of the home. With the addition, the home will remain of relatively modest size. In order to construct the addition, however, due to the small size, narrowness and slope of the buildable area of the lot, it is necessary to encroach slightly into the side setback. Consequently, I find that the size, narrowness, and topography of the Property are unique physical conditions that cause the Petitioner practical difficulties in complying with the setback requirement, in accordance with Section 130.B.2.a(1).

2. The addition will be used for permitted residential purposes and will not change the nature or intensity of the use. The existing dwelling to the east of the Property is well separated from the lot line. The variance, if granted, will therefore not alter the essential character of the neighborhood in which the lot is located, nor substantially impair the appropriate use or

development of adjacent property, nor be detrimental to the public welfare, in accordance with Section 130.B.2.a(2).

3. The practical difficulty in complying strictly with the setback regulation arises from the size, narrowness and topography of the Property and was not created by the Petitioners, in accordance with Section 130.B.2.a(3).

4. The proposed 16' by 24' addition is the minimum width feasible and will be located in the only area practical due to the size, narrowness and topography of the Property. Within the intent and purpose of the regulations, then, the variance is the minimum variance necessary to afford relief, in accordance with Section 130.B.2.a(4).

ORDER

Based upon the foregoing, it is this **3rd day of July 2006**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the Petition of Michael and Rebecca Ankrom for a variance to reduce the 10-foot side setback to 6.5 feet for an addition to be located in an R-20 (Residential – Single) Zoning District is hereby **GRANTED**;

Provided, however, that the variance will apply only to the uses and structures as described in the petition submitted, and not to any other activities, uses, structures, or additions on the Property.

**HOWARD COUNTY BOARD OF APPEALS
HEARING EXAMINER**

Thomas P. Carbo

Date Mailed: _____

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.